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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MERCHANTS MUTUAL INSURANCE	:	
COMPANY and WALTER B. GALLAGHER	:	
COMPANY n/k/a GALLAGHER FLUID SEALS,	:	
INC.,	:	
Plaintiffs	:	CIVIL ACTION - LAW
vs.	:	
NORFOLK & DEDHAM MUTUAL FIRE	:	
INSURANCE COMPANY,	:	
Defendant	:	NO. 02-CV-3635

**PLAINTIFF'S MOTION TO COMPEL
DEPOSITION OF DEFENDANT**

The Plaintiffs, Merchants Mutual Insurance Company & Walter B. Gallagher Company, n/k/a Gallagher Fluid Seals, Inc. , by and through their attorneys, Marshall, Dennehey, Warner, Coleman & Goggin, hereby moves to compel Defendant Norfolk & Dedham Mutual Fire Insurance Casualty Claims Manager, Joseph Haswell's Deposition, as follows:

1. This is a declaratory judgment and breach of contract action in which Defendant, Norfolk and Dedham is a co-insurer of Plaintiff, Merchants Mutual Insurance Company with respect to certain litigation commenced against Plaintiff, Walter B. Gallagher, Co., n/k/a Gallagher Fluid Seals, Inc.

2. This action also seeks a declaration that Norfolk & Dedham is a primary insurer for Gallagher for such actions and are covered by the terms of the Norfolk & Dedham policies by their terms and which are not covered by the Merchant's policies.

3. A settlement proposal was forwarded via correspondence dated April 22, 2003 and attached hereto as Exhibit A.

4. Counsel for Gallagher Fluid Seals, Inc. requested revisions to the settlement agreement and the revised settlement agreement was forwarded via correspondence dated April 29, 2003, attached hereto as Exhibit B.

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5. To date Norfolk & Dedham has not signed the settlement agreement.

6. A Notice of Oral Deposition was mailed on April 21, 2003, scheduling the deposition of Joseph Haswell, Casualty Claims Manager, for Norfolk & Dedham, to be held on May 5, 2003 at 10:00 a.m. at the law offices of Marshall, Dennehey, Warner, Coleman & Goggin, 1845 Walnut Street, Philadelphia, Pennsylvania, attached hereto as Exhibit C.

7. Neither Joseph Haswell, nor his attorney, Stephen Scheurle appeared for the Deposition as is evidenced by the Court Reporter's transcript attached hereto as Exhibit D.

8. Plaintiffs are entitled to take the deposition of the Defendant pursuant to Federal R.C.P. Rule 30.

9. The Scheduling Order issued by the Court orders that the Deposition of Joseph Haswell shall be conducted on or before June 16, 2003.

10. A Notice of Oral Deposition scheduling the deposition of Joseph Haswell for Thursday, June 12, 2003 is attached hereto as Exhibit E.

WHEREFORE, the Plaintiffs request this Honorable Court grant the Motion to Compel the deposition of Joseph Haswell, Casualty Claims Manager of Defendant, Norfolk & Dedham Mutual Fire Insurance Company or suffer sanctions upon further Motion.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN,

BY: _____

Eric A. Fitzgerald, Esquire
Attorney for Plaintiffs, Merchants Mutual Insurance
Company and Walter B. Gallagher Company n/k/a
Gallagher Fluid Seals Inc.

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NORFOLK & DEDHAM MUTUAL FIRE	:	
INSURANCE COMPANY,	:	
Defendant	:	NO. 02-CV-3635

CERTIFICATION OF SERVICE

I hereby certify that I have served upon all persons listed below a true and correct copy of Plaintiff's

Motion to Compel Deposition in the above-captioned matter this date to the following via U.S. regular mail.

David Abernathy, Esquire
Drinker, Biddle & Reath, LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996

Steve Scheurle, Esquire
1835 Market Street, Suite 2901
Philadelphia, PA 19103

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN,

BY: _____

Eric A. Fitzgerald, Esquire
Attorney for Plaintiffs, Merchants Mutual
Insurance Co. and Walter B. Gallagher Co.,
n/k/a Gallagher Fluid Seals, Inc.

DATE:

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INC., :

Plaintiffs

vs.

NORFOLK & DEDHAM MUTUAL FIRE :
INSURANCE COMPANY, :

Defendant

CIVIL ACTION - LAW

NO. 02-CV-3635

ORDER

Upon consideration of the Plaintiffs' Motion to Compel the Deposition of Joseph Haswell,

IT IS HEREBY ORDERED THAT:

1. The deposition of Joseph Haswell shall be conducted on or before June 16, 2003.
2. Joseph Haswell shall appear at the law offices of Marshall, Dennehey, Warner, Coleman & Goggin, 1845 Walnut Street, Philadelphia, PA at 10:00 am. For the purpose of providing deposition testimony.
3. Failure of Joseph Haswell to appear and provide such testimony will result in appropriate contempt sanctions.

BY THE COURT:

THE HONORABLE EDUARDO C. ROBRENO